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Enhanced cooperation on public policy issues pertaining to the Internet

Report of the Secretary-General

Summary

The Economic and Social Council, in its resolution 2010/2, invited the Secretary-General to convene open and inclusive consultations on public policy issues pertaining to the Internet involving all Member States and other stakeholders, and requested that the outcome of the consultations be reported, through the Council, to the General Assembly at its sixty-sixth session. The present report is submitted in response to that request.

Consultations were organized by the Under-Secretary-General for Economic and Social Affairs during the period from September to December 2010. Contributors reflected on the public policy issues of concern, on international cooperation mechanisms to address those issues and on the role of the United Nations and other entities in facilitating the process towards enhanced cooperation in those areas.

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I. Background

1. The call for enhanced cooperation in the area of Internet governance has its origins in the outcome of the second phase of the World Summit on the Information Society, held in Tunis in 2005. Member States recognized that there were many cross-cutting international public policy issues that required attention and were not adequately addressed by existing mechanisms.

2. While not defining enhanced cooperation in precise terms, the Tunis Agenda for the Information Society,[1] endorsed by the General Assembly in its resolution 60/252, recognized that all stakeholders should be involved in their respective roles. Specific mention is also made of the need for Governments to carry out their roles and responsibilities in international public policy issues pertaining to the Internet on an equal footing, and of the need for development of such policy by Governments in consultation with all stakeholders.

3. Within the framework of the Tunis Agenda, in particular its paragraphs 68 to 71, the Secretary-General was given the task of starting the process towards enhanced cooperation, proceeding as quickly as possible consistent with legal process. Member States also requested relevant organizations to commence a process towards enhanced cooperation involving all stakeholders and to report annually on their performance in that regard.

4. The Secretary-General responded by inviting 10 organizations to report on the steps they had undertaken towards enhanced cooperation, transmitting a summary of the replies received to the General Assembly through the Economic and Social Council in his report on the implementation of the outcome of the World Summit on the Information Society dated 13 March 2009 (A/64/64-E/2009/10). The 10 organizations were selected on the basis of discussions between the Special Adviser to the Secretary-General for Internet Governance and all stakeholder groups in 2006.[2]

5. In its resolution 63/202, the Assembly requested the Secretary-General to submit to the Economic and Social Council a report containing recommendations on how the process towards enhanced cooperation should be pursued. The Secretary-General wrote to the 10 relevant organizations requesting suggestions. A summary of the responses received was contained in the report of the Secretary-General on enhanced cooperation on public policy issues pertaining to the Internet, issued in June 2009 (E/2009/92), which was supplemented with an informal update issued in July 2010 (E/2010/CRP.4).

6. In its resolution 2010/2, the Economic and Social Council took note of the report of the Secretary-General on enhanced cooperation (E/2009/92) and invited the Secretary-General to convene open and inclusive consultations before the end of 2010 involving all Member States and all other stakeholders "with a view to assisting the process towards enhanced cooperation in order to enable Governments

[1] See A/60/687.

[2] The 10 organizations were: the Internet Corporation for Assigned Names and Numbers, the International Telecommunication Union, the World Wide Web Consortium, the Council of Europe, the Internet Society, the Organization for Economic Cooperation and Development, the United Nations Educational, Scientific and Cultural Organization, the World Intellectual Property Organization and the Number Resource Organization. One additional organization, the Internet Engineering Task Force, submitted a contribution of its own accord.

on an equal footing to carry out their roles and responsibilities in respect of international public policy issues pertaining to the Internet but not in the day-to-day technical and operational matters that do not impact upon those issues, through a balanced participation of all stakeholders in their respective roles and responsibilities, as stated in paragraph 35 of the Tunis Agenda". The Council directed that the outcome of the consultations be reported to the General Assembly for consideration at its sixty-sixth session, through the Economic and Social Council.

7. In its resolution 65/141, the General Assembly also took note of the 2009 report on enhanced cooperation while recognizing the need to promote the participation of intergovernmental organizations from developing countries in future consultations. The Assembly emphasized the significance and urgency of the process towards enhanced cooperation in full consistency with the mandate provided in paragraph 71 of the Tunis Agenda, and welcomed the decision of the Economic and Social Council to invite the Secretary-General to consult all Member States and all other stakeholders on this matter.

II. Organization of the open consultations on enhanced cooperation held pursuant to Economic and Social Council resolution 2010/2

8. In response to Council resolution 2010/2, the Under-Secretary-General for Economic and Social Affairs, on behalf of the Secretary-General, held open consultations on enhanced cooperation on public policy issues pertaining to the Internet over a four-month period from September to December 2010. Invitations to participate were circulated to all Member States of the United Nations, Permanent Observers, United Nations system agencies, non-governmental organizations in consultative status with the Economic and Social Council, Sector members of the International Telecommunication Union (ITU) and entities accredited to the World Summit on the Information Society not otherwise included in one of those groups. Approved academic and business entities participating in the work of the Commission on Science and Technology for Development were also eligible to take part. Input was sought from some 150 international organizations as well as some 3,500 civil society and private sector entities.

9. Stakeholders were given the opportunity to contribute in two ways. They could submit written comments in any form and at any time during the consultation period, and they could attend a face-to-face meeting to be held in New York on 14 December 2010. It was suggested that, in preparing comments, contributors reflect, above all, on what international public policy issues pertaining to the Internet were not being adequately addressed by current mechanisms and what specific processes should be pursued to enhance international cooperation in these areas.

10. Eighty-five written and oral contributions were conveyed in total by Governments, international organizations, civil society actors and private sector entities, as shown in the table below. These contributions included presentations made by designated representatives of different stakeholder groups to allow for the expression of as wide a range of views as possible. The International Chamber of Commerce spoke on behalf of the private sector. The Conference of Non-Governmental Organizations in Consultative Relationship with the United Nations spoke on behalf of civil society organizations.

11. In addition, 13 participants took advantage of an opportunity provided towards the end of the face-to-face meeting to engage with one another directly in an open discussion. All comments were considered in the preparation of the present report, whether they were communicated to the Secretariat in writing or expressed in person at the face-to-face meeting held in New York.[3]

Number of contributions to the open consultations

Stakeholder group	*Written comments submitted from September-December 2010*	*Presentations at face-to-face meeting, held 14 December 2010*	*Informal interventions during the open discussion*	*Total*
Governments	11	13	8	32
International organizations	7	1	0	8
Civil society	32	7	3	42
Private sector	9	5	2	16
Total	**59**	**26**	**13**	**98**

III. Public policy issues of concern

12. Contributors to the open consultations on enhanced cooperation identified a wide range of public policy issues, underscoring the interdisciplinary nature of Internet governance and its broad relevance to development objectives. Recalling the Geneva Declaration of Principles and the Tunis Agenda, participants broadly affirmed that the Internet was a central element of a people-centred, inclusive, development-oriented and non-discriminatory information society. At the same time, the management of the Internet as a global facility available to the public raised important issues related to international security, human rights and law.

13. While it was recognized that cooperation on international public policy issues pertaining to the Internet had been enhanced to varying degrees in many organizations and across a wide spectrum of issue areas since the holding of the World Summit on the Information Society, it was noted that there was room for continued dialogue, in particular among States, given their rights and responsibilities in international public policymaking.

14. However, a generalized notion of enhanced cooperation was thought to be of limited utility, given the multidimensional character of Internet governance and the varied interests at stake. Some contributors pointed out that a greater degree of specificity in identifying issues of concern would be helpful. In this way, a more productive discussion could ensue about both the substance of international public policy matters and the processes through which enhanced cooperation on those issues might be pursued. For example, rather than discussing Internet governance for development in broad terms, stakeholders might focus instead on specific policy questions, including international Internet interconnection costs, network neutrality and the protection of privacy and data, with a view to identifying points of agreement and areas for further deliberation.

[3] A complete record of the consultations is available online at http://www.unpan.org/dpadm/wsisfollowup.

15. Most of the contributions from Governments, international organizations and civil society entities pointed in the direction of specificity in the identification of Internet-related public policy issues. Private sector entities, on the other hand, stressed the need for consultation with business as a matter of principle and the promotion of public-private partnerships designed to expand Internet access.

16. The question arose as to which public policy issues of concern should be pursued, given the progress that had been made in Internet-related security, development, human rights and law in the past five years and the continuously changing technological landscape. A number of contributors evoked the outcomes of the World Summit on the Information Society, observing that the Summit had benefited from a report by the Secretary-General's Working Group on Internet Governance, which had been mandated by the Summit during its first phase to develop a working definition of Internet governance, identify public policy issues relevant to Internet governance, and develop a common understanding of the respective roles and responsibilities of various stakeholder groups.[4]

17. A number of governmental stakeholders suggested that the work of the Working Group, as reflected in the Tunis Agenda, might serve as a reference point in the articulation of current priority issues by the relevant bodies, taking into account past developments and the possibility that new issues might have emerged. Internet-related public policy issues identified at the World Summit included cybersecurity, the protection of personal information, privacy and data, spam prevention, freedom of information, electronic commerce, consumer protection, e-government, international interconnection costs, capacity-building and technology transfer, information and communications technology education, training and workforce development, multilingualism, investment and innovation, the management of critical Internet resources, and the affordability, reliability and quality of service. Participants reflected on many of those issues in the open consultations with varying degrees of emphasis and interpretation.

18. Many civil society entities urged consideration of specific policy outcomes and attention to capacity-building to address various aspects of development and human rights, calling for, inter alia, increased investment in information and communications technology applications in the areas of health, education and child protection. Others referred to the shared principles, norms, rules, decision-making procedures and programmes that shaped the evolution and use of the Internet. The consultations thus drew renewed attention to a distinction made in the Tunis Agenda between the broad challenges of promoting information and communications technology for development and the related, but narrower, objective of enhancing the capacity of stakeholders to engage in Internet governance in accordance with the Geneva principles of multilateralism, transparency and democracy.

19. The Tunis Agenda also recognized the need for enhanced cooperation in Internet-related international public policymaking, but not in the day-to-day technical and operational matters that do not have an impact on international public policy issues. A similar distinction was made between the legal, standards-setting and administrative functions of Internet management, with a number of stakeholders calling for recognition both of the role of Governments in public policymaking and of the contribution of technical organizations to the evolution, functioning and

[4] WSIS-II/PC-3/DOC/5, available from www.itu.int/wsis.

development of the Internet. The views expressed by participants underscored the need not only to consider which specific issues were of current concern but also to be mindful of the distribution of legal and regulatory responsibilities for these issues among international policymaking, standards-setting and administrative bodies.

IV. International cooperation mechanisms

20. Paragraph 69 of the Tunis Agenda underlines the need for enhanced cooperation to enable Governments to carry out their roles and responsibilities in international public policy issues pertaining to the Internet. However, the World Summit on the Information Society outcome documents did not specify how the process of enhanced cooperation should be designed, the means by which enhanced cooperation could be achieved or how the desired results should manifest themselves in practice.

21. There were diverging views on the procedural aspects of enhanced cooperation. Some argued that enhanced cooperation referred to deliberations among Governments, for example, under the auspices of the United Nations. Others suggested that enhanced cooperation assumed many different forms and that it should involve entities from various stakeholder groups, through, for example, meetings of the Internet Governance Forum or in bilateral or multilateral arrangements such as the December 2009 cooperation agreement between the Internet Corporation for Assigned Names and Numbers (ICANN) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) on Internet multilingualism.

22. Despite the multiplicity of positions regarding exactly how enhanced cooperation should be pursued, there seemed to be a convergence of opinion that Internet governance involved many dimensions and layers of cooperation with diverse forms of stakeholder consultation suited to different types of policy innovation and a need for consistency with due legal process. At the same time, the legal processes of the relevant institutions could be updated to be more responsive to innovation, changes in technology, interest in public-private partnerships and the expansion of the Internet as a global public facility.

23. A number of contributors to the open consultations pointed to the evolution of institutional arrangements within ICANN, in particular the successful conclusion of the Affirmation of Commitments by the United States Department of Commerce and ICANN as an indication of progress in cooperation in the management of critical Internet resources. The agreement, which took effect on 1 October 2009, declared ICANN as independent and not controlled by any one entity. It also reaffirmed the role of the Corporation's Governmental Advisory Committee in providing input on the public policy aspects of the technical coordination of the domain name system. Some stakeholders noted that they would like to see the further internationalization of Internet governance building on the Affirmation of Commitments and further promoting the principle of multilateralism.

24. The international cooperation mechanisms available to the governing bodies of the United Nations and ITU were mentioned repeatedly. The contributions of UNESCO, the World Intellectual Property Organization and others within their particular areas of expertise were also noted. Specific reference was made to the Commission on Science and Technology for Development, given its mandate to assist the General Assembly and the Economic and Social Council in guiding the

implementation of the outcomes of the World Summit on the Information Society, developing common policies on relevant issues and agreeing on appropriate actions.

25. Some contributors proposed the establishment of an ad hoc working group under the Commission on Science and Technology for Development with a view to the development of an institutional design and road map to enhance cooperation on Internet-related public policy issues with the support of the Secretary-General. Others suggested the creation of a more permanent committee on international public policy issues pertaining to the Internet within the United Nations system, possibly modelled on the Committee on Information, Communications and Computer Policy of the Organization for Economic Cooperation and Development.

26. Reference was made to a set of globally applicable principles on Internet governance, including those associated with the management of critical Internet resources, as a possible result of the process towards enhanced cooperation. Other substantive outcomes proposed included commitments to capacity development, improved access to the Internet, especially in rural areas and least developed countries, technological assistance in coping with security challenges, training programmes, an international mechanism for the adjudication of cases of electronic crime and contract dispute, and a range of other policy, regulatory and technical norms associated with various issues of concern, such as those referred to in section III above.

27. The close relationship between processes and issues identified by contributors in their comments underscored the notion that the scope and authority of an outcome would depend on the international cooperation mechanism charged with the formulation of that outcome. Conversely, the selection of an appropriate cooperation mechanism would depend on the expected scope and authority of the end result. More concretely, global policy questions should be addressed by an entity with global representation, such as the United Nations, and regional questions by entities with regional representation, such as the Council of Europe. Legal matters relating to e-commerce might be taken up by an entity such as the United Nations Commission on International Trade Law, while international public policy questions pertaining to freedom of expression could be guided by the governing bodies of UNESCO.

28. The point was made that policies arising from the deliberations of those institutions should be consistent with existing international law; it was noted, however, that the converse also held true. International law might need to be updated on occasion, taking into account the unique attributes of this new medium.

29. A point of widespread agreement was that ongoing dialogue with stakeholders should be a defining characteristic of the relevant international cooperation processes, in accordance with the World Summit on the Information Society principles and the common vision of a people-centred, inclusive and development-oriented information society. A number of examples were provided of productive consultative mechanisms, among them the long-standing arrangements between the Economic and Social Council and non-governmental organizations, the membership of private sector entities in the ITU sectors and study groups, the participation of relevant organizations in discussions on Internet governance at the quadrennial ITU Plenipotentiary Conference, and the public review process and Governmental Advisory Committee of ICANN.

30. Some observers expressed the view that the increasing prominence of stakeholder consultation in a range of forums provided strong, even definitive, evidence of enhanced cooperation in the area of Internet governance and that such efforts were to be commended and encouraged. Several consultation participants suggested that enhanced cooperation could itself be seen as a process of facilitating multi-stakeholder dialogue through formal or informal arrangements. They expressed the opinion that significant progress had already been made in developing a common understanding of the issues at hand and in providing a cooperative framework for addressing those issues.

31. For many, one of the more valuable consultative mechanisms was the Internet Governance Forum, which was considered to have had a significant role in shaping public opinion on relevant issues, provided an opportunity to discuss the management of critical Internet resources and had an important influence on decisions taken elsewhere. The Forum was also considered to have facilitated the sharing of information and experiences, consensus-building, technology transfer and capacity-building. Above all, the Forum has provided a platform for developing a common understanding of Internet governance issues among all stakeholder groups and a cooperative framework to begin addressing them.

32. Some steps could be taken to encourage the greater participation of developing countries in the Forum, but these and other improvements in its functions and working methods would be addressed separately by the Commission on Science and Technology for Development as inputs to the next session of the General Assembly through the Economic and Social Council.

33. Others held the view that the process towards enhanced international cooperation had not yet begun and that existing arrangements had not ensured that Governments were enabled, on an equal footing, to carry out their roles and responsibilities in the relevant area of international public policymaking. They called for a new mechanism, such as a discrete intergovernmental platform with a strict mandate to discuss Internet governance.

34. It was pointed out that the Economic and Social Council, in its resolution 2010/2, had recognized that the process towards enhanced cooperation and the convening of the Internet Governance Forum should be pursued by the Secretary-General through two distinct, possibly complementary, processes. Reflecting on the nature of the possible link, participants observed that the Tunis Agenda had recognized the policymaking role of Governments and that authority with respect to Internet-related public policy issues was the sovereign right of States. At the same time, Governments were obliged to take the views of all stakeholders into account. One participant suggested that summary notes by the Secretary-General drawing on the proceedings of the Forum be conveyed to the relevant intergovernmental bodies in ways that conformed to the procedures of those bodies, as inputs to governmental deliberations.

V. Role of the Secretary-General

35. The Tunis Agenda attributes an important role to the Secretary-General in the promotion of enhanced cooperation on public policy issues pertaining to the Internet. Intergovernmental organizations such as the United Nations are ascribed a facilitating role in the coordination of Internet-related public policy issues. The role

of the United Nations system was affirmed by a number of contributors, although opinions varied as to whether the Secretary-General should take the initiative in promoting cooperation among Governments and other stakeholders or continue to assist in response to requests by the General Assembly and other policymaking organs, taking into account paragraph 35 of the Tunis Agenda reaffirming the roles and responsibilities of the different stakeholder groups.

36. Those who commented tended to be of the view that the Secretary-General should hold further consultations with Governments and other stakeholders on various Internet-related public policy matters and attendant processes. These might take a form similar to the 2005 Working Group on Internet Governance, which was tasked with preparing a report to facilitate negotiations during the second phase of the World Summit on the Information Society. They could also consist of informal discussions involving development experts from a variety of disciplines and the preparation of relevant reports by the Secretary-General on specific public policy issues pertaining to the Internet for consideration by the international community, including reviews of progress made on the specific issues of concern.

37. The contribution of other intergovernmental organizations based on a clear understanding of their respective mandates was noted. In this regard, the Secretary-General was charged with continuing to play a coordinating role, through the United Nations System Chief Executives Board for Coordination and other cooperative mechanisms, in line with General Assembly resolution 57/270 B on integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic and social fields. Particular mention was made of the value of cooperation between ITU and other organizations that might have an important role to play in the development of Internet-related technical standards.

38. It was also suggested that the United Nations system continue to promote capacity-building, in keeping with the Tunis Agenda, which called upon the Secretary-General to facilitate activities among different stakeholders, including civil society and the business sector, to help national Governments in their World Summit on the Information Society implementation efforts.

39. In conclusion, contributors generally agreed that cooperation is already taking place in many respects, although it could be enhanced in some areas; that specific issues of concern could be identified and discussed; that progress has not necessarily been the same on all issues since the holding of the World Summit on the Information Society in 2005; and that existing cooperation mechanisms should be used to the extent that they were helpful.